

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:07-HC-2049-H

UNITED STATES OF AMERICA)
)
Petitioner,)
)
v.) **ORDER**
)
SEYMORE BILAGODY,)
)
Respondent.)

This case comes before the court on Petitioner's Motion for Voluntary Dismissal With Prejudice With Leave of Court [D.E. #67], along with a Settlement Agreement [D.E. #67-2] signed by the parties. Pursuant to 28 U.S.C. § 636(b)(1), United States Magistrate Judge James E. Gates entered a memorandum and recommendation [D.E. #71] ("M&R") wherein he recommends that the court allow the motion. The parties have executed and filed a waiver [D.E. #72] of their right to object to the M&R. In this posture, the issues raised are ripe for ruling. For the reasons that follow, the court adopts the findings and recommendations of the magistrate judge.

Upon careful review of the M&R, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Because the parties have waived their right to object, the court reviews the magistrate judge's findings and conclusions only for clear error, and need not give any explanation for adopting the M&R.

Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

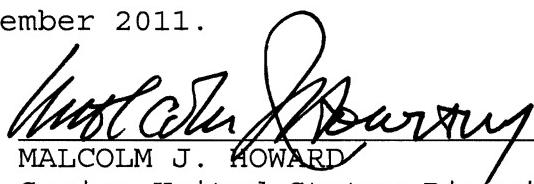
The court hereby ADOPTS the M&R as its own and FINDS that respondent was fully competent to enter into the Settlement Agreement and that he knowingly and voluntarily did so after having an adequate opportunity to confer with counsel; and that the government also knowingly and voluntarily entered into the Settlement Agreement.

IT IS THEREFORE ORDERED that:

1. the motion [D.E. #67] is ALLOWED;
2. the case is DISMISSED WITH PREJUDICE pursuant to Fed. R. Civ. P. 41(a)(2);
3. the stay of respondent's release from Bureau of Prisons custody is LIFTED and respondent shall be RELEASED forthwith from Bureau of Prisons custody; and
4. respondent shall report to the United States Probation Office for the District of Arizona within 72 hours of his release in order to comply with the judgment entered by that court in the case of United States v. Seymore Bilagody, Docket No. 3:00-CR-01199-001-PCT-PGR, on 19 December 2001 [D.E. #36] and the order modifying the terms of his supervised release, entered on 1 November 2011 [D.E. #37].

The Clerk is DIRECTED to send a copy of this order to the Clerk of Court for the District of Arizona, 401 West Washington Street, Suite 130, SPC 1, Phoenix, AZ 85003.

This 16 th day of November 2011.



MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, NC
TJL